

Amendments to the Drawings

The attached sheet of drawings includes changes to Figure 5. This sheet replaces the original sheet for Figure 5. In Figure 5, the reference sign 27001 has been added.

Attachment: Replacement Sheet

REMARKS

Claims 1, 2, 4-8, 18-24, 29, 32-33, 35, 37-42 are pending and Claims 3, 9-17, 25-28, 30-31, 34, 36, 43-45 are withdrawn. Claim 32 has been amended. Claim 8 has been cancelled in this Response. No new matter has been added.

Priority

The Examiner has indicated that the priority document (Application No. 60/450797) fails to provide adequate support or enablement in the manner provided by the first paragraph of 35 U.S.C. 112 for one or more claims of the application. The Examiner believes Fig. 5 of the present application is not disclosed in Application No. 60/450797 and is therefore new matter.

Applicant respectfully disagrees with the Examiner. Fig. 5 and the related subject matter is supported by Application No. 60/450797. Applicant directs the Examiner's attention to page 17 of Application No. 60/450797, specifically the paragraph beginning on line 20 which incorporates by reference the contents of the application having Attorney Docket No. 605 that was filed on the same day (February 28, 2003). Attorney Docket No. 605 is Application No. 10/376,415 which issued as U.S. Patent No. 6,935,632. This document provides support for Fig. 5 and its related subject matter (See Figures 1 and 5 of U.S. Patent No. 6,935,632). Accordingly, Fig. 5 is not new subject matter.

Amendments

The Specification and Figure 5 have been amended as suggested by the Examiner to fix minor typographical errors. The Abstract has also been replaced to conform to the 150 word limit as indicated by the Examiner. No new matter has been added. The Applicant would like to thank the Examiner for the suggestions and indications.

Claim 32 has been amended fix a typographical error. "the" was changed "a" in accordance with antecedent basis. Claim 8 has been cancelled.

Drawings

The Examiner has indicated that the drawings do not show every feature of the invention specified in the claims. Specifically: the carrier element of claim 5; a housing in claim 8;

contact areas in claims 20, 22, 40, and 22 (Applicant assumes Examiner means claim 20-22, and 40-42); means for introducing a barrier fluid in claim 23; a shuttle stop in claim 29; and a first and second piston area in claims 18 and 38.

Applicant respectfully disagrees with the Examiner that these elements are not shown in the figures. Regarding the carrier element of claim 5, this is shown in figures 1A, 1B, 2A, and 2B as element 27. The specification of the present application states on page 10, first full paragraph, that “The shuttle member 27 comprises a carrier element having an axially disposed outer portion 27a formed at one end and an axially disposed inner portion 27b formed at the opposite end...” Claim 8 has been cancelled rendering the objection moot. Regarding the contact area of claims 20-22 and 40-42, this is shown in Figure 1-4 and referenced in the text (e.g. “contact area of the seal faces 46, 58” on page 10, line 27). Regarding the means for introducing a barrier fluid to the seal, Applicant directs Examiner to element 110 of Figs. 1A-B and the related description (“The flush port 110 may be utilized to introduce barrier fluid 63...”). Regarding the shuttle stop in claim 29, this is shown as element 29 and 290 in Figs. 1A-3B. Regarding first and second piston areas in claims 18 and 38, these are shown as A, B, A1, B1, A2, and B2 in Figs 1A-4B.

Claim Rejections – 35 USC § 112

Claims 32, 33 and 37-42 are rejected under 35 U.S.C. § 112, section paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant respectfully traverses the rejection.

The Examiner has asserted that Claims 32, 33 and 37-42 are ambiguously constructed and indeterminate in scope because they purport to claim both an apparatus and method of using or practicing the apparatus in a single claim.

Applicant respectfully disagrees with the Examiner. These claims are not claiming both an apparatus and method. Independent claim 32 is a method claim that recites, in the preamble of the claim, the structure of the mechanical seal in which a method is performed. Claims 33 and 37-42 depend from and appropriately reference the method of claim 32.

As such, claims 32, 33, and 37-42 are not indefinite for failing to point out and distinctly claim the subject matter which the applicant regards as the invention. Accordingly, Applicant

kindly requests the Examiner to withdraw the rejection to claims 32, 33, and 37-42 under 35 U.S.C. § 112, section paragraph.

Claim Rejections – 35 USC § 101

Claims 32, 33, and 37-42 are rejected under 35 U.S.C. § 101 because they improperly embrace both product or machine and process. Applicants respectfully traverse the rejection.

Applicant respectfully disagrees with the Examiner. As discussed above in regard to the 35 U.S.C. 112 rejection, Independent claim 32 is a method claim that recites, in the preamble of the claim, the structure of the mechanical seal in which a method is performed. Claims 33 and 37-42 depend from and appropriately reference the method of claim 32.

As such, claims 32, 33, and 37-42 do not improperly embrace both product or machine and machine and process. Accordingly, Applicant kindly requests the Examiner to withdraw the rejection to claims 32, 33, and 37-42 under 35 U.S.C. § 101.

Claim Rejections – 35 USC § 102

Claims 1, 2, 4-8, 18-24 and 29 are rejected under 35 U.S.C. 102(e) as being anticipated by Azibert et al. (U.S. Patent No. 6,935,632). Applicant respectfully traverses the rejection.


Azibert et al. (U.S. Patent No. 6,935,632) is not an appropriate 102(e) reference. The present application claims priority to Application No. 60/450797 which was filed on February 28, 2003. Azibert et al. (U.S. Patent No. 6,935,632) was filed on February 28, 2003. Indeed, Azibert et al. (Application No. 10/376,415) was filed concurrently with and incorporated by reference in Application No. 60/450797. As such, Azibert et al. (U.S. Patent No. 6,935,632) was not described in an application filed before this application. Accordingly, Applicant kindly requests the Examiner to withdraw the rejection to claims 1, 2, 4-8, 18-24 and 29 under 35 U.S.C. § 102(e).

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

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Respectfully submitted,

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